

10/605,142

5

BOE 0453 PA

REMARKS

The Applicant has carefully considered the Examiner's comments in the Office Action dated March 02, 2005. Claims 1-20 currently stand rejected in the Office Action. The drawings stand objected to by the Examiner. The Specification stands objected to by the Examiner. Claims 1-20 are pending in the application, of which Claims 18 and 20 are currently amended. No new matter has been added to the application. Applicant respectfully requests reconsideration by the Examiner.

The drawings stand objected to as failing to comply with 37 CFR 1.83(a). Applicant has amended Claim 20 rendering the present objection moot. The orientation of the two sections is supported by the drawings and is properly claimed in Claim 20. In making the amendment to Claim 20, the Applicant has not abandoned any material, but has presented the claim in an alternative and equally consistent form, thereby conforming to the drawing requirements. It is to be understood that the Applicant still claims the orientation of the two sections being one above the other, which is supported by the broader claims of the present invention. Accordingly, the objection is now obviated and the specification together with the drawings as previously submitted are in compliance 37 CFR 1.83(a).

Specification paragraph [0027], [0030], [0031] and [0032] are objected to by the Examiner as improperly incorporating by reference material from the provisional application into the non-provisional application and accordingly is to be considered new matter. Incorporation by reference as given in MPEP §608.01(p) is inapplicable to a new matter rejection under 35 U.S.C. §132. The Applicant agrees that 35 U.S.C. §132 states that no amendment shall introduce new matter into the disclosure of the invention. However, MPEP §608.01(p) for incorporation by reference is inapplicable to the present situation. The Applicant has properly claimed priority to a provisional application. The priority is properly stated as is disclosed in the reference section of the non-provisional application. The non-provisional application is entitled to the benefit of the priority for a provisional application under 35 U.S.C. §119(e). The amendments in the non-provisional application are completely supported by the provisional application. "Amendments to an application which are supported in the original description are NOT new matter." MPEP §2163.07. Moreover, matter claimed from a properly referenced provisional application is not new matter. The Applicant has not introduced new matter into the present application and the objection is thus obviated. Accordingly, the Examiner is requested to accept the amendments and remove the objection.

10/605,142

6

BOE 0453 PA

In the Office Action, Claims 18 and 20 stands rejected under 35 U.S.C. §112 as failing to comply with the written description requirement. The objection is moot in light of the recent amendments to Claims 18 and 20. Claim 18 requires a plurality of fuel tanks are provided only in the elongated substantially cylindrical section. Fuel tanks as described in the specification reasonably convey to one skilled in the relevant art that the inventor had possession of the claimed invention at the time the application was filed. Claim 20 is amended, thereby overcoming this rejection and the drawing objection, as mentioned above. Accordingly, the rejections under 35 U.S.C. §112 have been overcome.

As indicated on pages 4-7 of the Final Office Action, the Examiner maintains the rejection of the Office Action dated August 17, 2004. Applicant respectfully request reconsideration by the Examiner. Applicant presents first, a Response to Final Office Action Arguments and then second, a full Response to the Rejections.

Response to Final Office Action Arguments

In response to the first paragraph on page 8 of the Final Office Action, the Applicant understands the Examiner's position concerning "aircraft" and "spacecraft". While it is true that Clark discloses a space bound craft which may also be an aircraft in the most hyper-technical sense of the word as is so elegantly explained by the Examiner, the Final Office Action fails to identify that a space craft and an aircraft are not the same. However, the Applicant does not assert that which the Examiner postulates. Applicant has only stated that Clark does not teach an aircraft as is required by Claim 1 in order to bring to the Examiners attention that the embodiment of a spacecraft is structurally distinguishable from that of an aircraft. Applicants respectfully ask the Examiner to pay heed to this subtle, but most important, distinction in considering Applicants actual argument as presented in response to the last office action.

In response to the second paragraph on page 8 of the Final Office Action, the Applicant maintains the previous response. The Final Office Action does not show how the dashed lines may, in the remotest of possibilities, convey to one having ordinary skill in the art all of the elements as are presupposed by the Examiner. The argument as to what Clark teaches or suggest is only supposition.

In response to the third paragraph on pages 8-9 of the Final Office Action, the Applicant maintains the previous response. The Examiner incorrectly relies upon newly added independent Claim 8 to support his rejection of Claim 1. While it is true that the Applicant did add new Claim 8 to the application, Claim 1 stands independently on its own. The Examiner

10/605,142

7

BOE 0453 PA

should also head that claim 8 includes other limitations different and apart from Claim 1. Accordingly, there can be no assumption derived from the meaning of Claim 1 based upon Claim 8. It is Applicant position that the Clark reference does not teach or suggest two elongated substantially cylindrical section joined together side-by-side as is required by Claim 1. The Examiner is requested to accept the plain meaning given by the claim language, as is indicated in the specification, and as argued during prosecution that the two elongated substantially cylindrical section are joined together side-by-side in Claim 1.

In response to the forth paragraph on page 9 of the Final Office Action, the Applicant maintains the previous response. The Applicant only agreed with the Examiner's position to impress upon the Examiner concerning the dashed lines. Specifically, if the dashed lines convey one thing to a person having ordinary skill in the art how is it that the same dashed lines can be used to convey a different thing to a person having ordinary skill in the art. The Examiner has essentially claimed more elements than are represented in the Figures of Clark. Accordingly, because the Examiner cannot decide what the dash lines convey to a person having ordinary skill in the art, then the rejection under Clark should be removed because the Examiner has not shown what a person of ordinary skill in the art would understand Clark to convey.

In response to the fifth paragraph on pages 9-10 of the Final Office Action, the Applicant maintains the previous response. While the Examiner indicates that it is a matter of semantics, the Applicant respectfully disagrees. However, while the Applicant agrees with the Examiner that Lafferty teaches three fuselages attached together, the Applicant disagrees with the Examiner that Lafferty teaches a fuselage with two elongated section. The Examiner has not shown a fuselage having two elongated section as is required by the claims. The Examiner postulates that the nuance in the term "fuselage" of Lafferty might be interpreted as having a single fuselage having three cylindrical sections. However, if one were to agree with the Examiners supposition, it would destroy the teachings in Lafferty cornering multiple fuselages connected together. In light of the clear distinction between the present invention and the teachings in Lafferty, the rejection should be withdrawn.

In response to the sixth paragraph on page 10 of the Final Office Action, the Applicant maintains the previous response. With respect to the teaching of the Roeder reference, the Examiner highlights the vary point made by the Applicant. Roeder teaches that fuel tank is contained in the wing and the wing passes through the fuselage. While, Claim 1 requires that

10/605,142

8

BOE 0453 PA

the fuel tank is positioned **within** one of the two sections of the fuselage. Accordingly, this rejection should be removed for Claim 1. Further, the seventh paragraph on page 10 of the Final Office Action rejecting Claim 4 should be read in light of arguments presented for Claim 1 and including the original response, as given below.

Response to the Rejections

The Applicant now addresses the Examiner's rejections of claim 1-20 located on pages 4-7 of the Final Office Action in order.

In the Office Action, claims 1, 3, 5, and 7 were rejected under 35 U.S.C. § 102(e) as being anticipated by *Clark et al.* (US 6,422,514 B1). Applicant respectfully traverses that rejection.

Claim 1 is directed to an aircraft. The aircraft of Claim 1 requires a fuselage, a main wing, at least one vertical stabilizer and at least one horizontal stabilizer. Claim 1 further requires that the fuselage includes two elongated substantially cylindrical sections joined together side-by-side, one of the sections having at least one fuel tank positioned therein. The *Clark* reference is directed to a spacecraft. Moreover, the *Clark* reference is directed to a fuel tank structure in an aerospace vehicle. Also, the *Clark* specification does not describe what is actually shown by the dashed line in the figures as presupposed in the Office Action. Regardless of what is shown by the dashed line, the dashed line cannot support a showing of a fuselage, a main wing, at least one vertical stabilizer and at least one horizontal stabilizer. Applicant speculates what is clearly shown by the dashed line in the figures of *Clark* is a tail fin having control stabilizers in order for the spacecraft to reach orbit. The *Clark* reference fails to teach or suggest an aircraft as required by claim 1. Also, the *Clark* reference fails to teach or suggest an aircraft having a main wing as required by claim 1. Furthermore, on page 3 of the Office Action it is suggested that, "...*Clark* comprises two elongated cylindrical sections (112 and 118, for example) that are joined side-by-side, as shown in the figures." However, while it is true that *Clark* discloses two elongated cylindrical sections, *Clark* discloses "...a first pair of chambers 112 and 118 are arranged parallel to the sides of the body portion of the aerospace vehicle 10, and are connected together at a forward end portion thereof, but are spaced apart at a rearward portion thereof." *Clark*, col. 3, lines 9-13. Here the *Clark* reference emphasizes that the tanks are spaced apart and not joined side-by-side as supposed by the Office Action. *Clark* also fails to teach or suggest that the fuselage includes two elongated substantially cylindrical sections joined together side-by-side, one of the sections having at least one fuel tank

10/605,142

9

BOE 0453 PA

positioned therein. Accordingly, Applicant respectfully requests that the rejection under 35 U.S.C. §102 be withdrawn as *Clark* fails to teach or suggest every limitation of claim 1.

Claim 3 is allowable as stated for claim 1 and as depending further therefrom.

Claim 5 requires two of the vertical stabilizers to be provided. In the Office Action it is stated that, "Clark additionally discloses two vertical stabilizers as can be seen upon examination of figures 1 and 2." Agreeing with the Office Action for the sake of argument that *Clark* discloses two vertical stabilizers further reinforces and emphasizes Applicant's position that *Clark* fails to disclose at least a main wing or a horizontal stabilizer as mentioned above for claim 1. Accordingly, Applicant respectfully requests that the rejection under 35 U.S.C. §102 be withdrawn as *Clark* fails to teach or suggest every limitation of claim 1. Claim 5 is allowable as depending from independent claim 1.

Claim 7 is allowable as depending from independent claim 1.

In the Office Action, claims 1, 2, 8, 9 and 14 were rejected under 35 U.S.C. § 102(e) as being anticipated by *Lafferty* (US 6,394,392 B1). Applicant respectfully traverses that rejection.

Claim 1 is directed to an aircraft having a fuselage. Claim 1 requires that the fuselage includes two elongated substantially cylindrical sections joined together side-by-side, one of the sections having at least one fuel tank positioned therein. The *Lafferty* reference is directed to an aircraft having a plurality of fuselages. More specifically, the *Lafferty* aircraft has a central fuselage, and first and second sidesaddle fuselages mounted on opposite sides of the central fuselage. While it is true that the central fuselage of *Lafferty* may contain fuel, *Lafferty* teaches three fuselages. See *Lafferty*, col. 5, lines 61-67 and col. 6, lines 1-8. *Lafferty* fails to teach or suggest that the fuselage includes two elongated substantially cylindrical sections joined together side-by-side. Accordingly, Applicant respectfully requests that the rejection under 35 U.S.C. §102 be withdrawn as *Lafferty* fails to teach or suggest every limitation of claim 1.

Claim 2 is also allowable for the reasons stated for claim 1.

Independent Claim 8 is not anticipated by *Lafferty* for the reasons given in Claim 1. Moreover, Claim 8 requires an elongated substantially full cylindrical section and an elongated substantially cylindrical section. *Lafferty* fails to teach or suggest an elongated substantially full cylindrical section and an elongated substantially cylindrical section.

Claims 9 and 14 are allowable as depending from allowable claim 8.

10/605,142

10

BOE 0453 PA

In the Office Action, claims 1, 2 4, 8, 9, 11, 12, 15, 16, 18, and 19 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Roeder et al.* (US 5,086,996). Applicant respectfully traverses that rejection.

Claim 1 is directed to an aircraft having a fuselage with two elongated substantially cylindrical sections joined together side-by-side. Claim 1 requires that one of the elongated substantially cylindrical sections have at least one fuel tank positioned therein. The *Roeder* reference is directed to an aircraft having a bilobed fuselage to facilitate passenger movement from one lobe to the other in accordance with aviation safety regulations. Specifically, the *Roeder* reference states "arrangements are made to ensure that the central portion of the wing structure 9, which **passes through the bilobed fuselage** and forms a central wing box within the lower internal space of said fuselage." *Roeder*, col. 11, lines 38-42. Moreover, the wing structure of *Roeder* "constitutes the limit of a cellular fuel tank 80 which will thus have an increased capacity." *Roeder*, col. 11, lines 42-44. The Office Action on page 4 states that, "Roeder clearly... discloses fuel tanks within the cylindrical sections of the aircraft." While it is true, however, there is a wing structure that passes through the bilobed fuselage of *Roeder*, there is a fuel tank within the wing structure and not within the fuselage. *Roeder* fails to teach or suggest that at least one fuel tank is positioned within one of the elongated substantially cylindrical sections of the fuselage. Accordingly, Applicant respectfully requests that the rejection under 35 U.S.C. §102 be withdrawn as *Roeder* fails to teach or suggest every limitation of claim 1.

Claim 2 is also allowable for the reasons stated for claim 1.

Claim 4 is allowable as depending from independent claim 1. Claim 4 requires a plurality of fuel tanks are provided in the elongated substantially cylindrical section. Applicant agrees with the Examiner that *Roeder* teaches two fuel tanks. Moreover, the two fuel tanks of *Roeder* further emphasizes that the fuel tanks are in the wing and not within the fuselage as discussed above with respect to claim 1. Specifically, *Roeder* teaches that "movement of fuel between two tanks of the aircraft, these movements being intended to modify the position of the center of gravity of the aircraft during a flight with a view to reducing drag and achieving a saving of fuel." *Roeder* fails to teach or suggest a plurality of fuel tanks are provided in the elongated substantially cylindrical section. Accordingly, Applicant respectfully requests that the

10/605,142

11

BOE 0453 PA

rejection under 35 U.S.C. §102 be withdrawn as *Roeder* fails to teach or suggest every limitation of claim 1.

Independent Claim 8 is not anticipated by *Roeder* for the reasons given in Claim 1. Moreover, Claim 8 requires an elongated substantially full cylindrical section and an elongated substantially cylindrical section. *Roeder* fails to teach or suggest an elongated substantially full cylindrical section and an elongated substantially cylindrical section.

Claims 9, 11 and 12 are allowable as depending from claim 8.

Independent Claim 15 is not anticipated by *Roeder* for the reasons given in Claims 1 and 8. Moreover, Claim 15 requires an elongated substantially cylindrical section and an elongated substantially C section. The Final Office Action in interpreting Figures 4 and 4A of *Roeder* suggest that "either one of the sections is clearly an elongated "C section" and the other is clearly "substantially cylindrical," even if not fully cylindrical." *Roeder* teaches on lines 34- 40 of column 8, "that both section are cut at its intersection with a plane Q parallel to its axis, the distance d from the axis to the plane Q being the same in both cases." *Roeder* fails to teach or suggest an elongated substantially cylindrical section and an elongated substantially C section.

Claims 16, 18 and 19 are allowable as depending from allowable claim 15.

In the Office Action, claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Lafferty* in view of *Flamand et al.* (3,405,893). Applicant respectfully traverses that ground of rejection.

In light of the foregoing, claim 6 is also allowable as depending from independent claim 1, and is therefore non-obvious as *Lafferty* in view of *Flamand* fails to teach or suggest every limitation of claim 1 and 6.

In the Office Action, claims 10, 13, and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Roeder* in view of the Hydrogen Newsletter Summer 1996: Hydrogen Fuel Standards ([Http://www.hydrogenus.com/advocate/ad12isof.htm](http://www.hydrogenus.com/advocate/ad12isof.htm)). Applicant respectfully traverses that ground of rejection.

In light of the foregoing, claims 10, 13, and 17 are also allowable as depending from independent claims 8 and 15, and is therefore non-obvious as *Roeder* in view of the Hydrogen Newsletter Summer 1996: Hydrogen Fuel Standards fails to teach or suggest every limitation of claims 10, 13, and 17

10/605,142

12

BOE 0453 PA

Accordingly, in view of the foregoing Remarks, the Applicant submits that claims 1-20 are allowable and in a proper condition for allowance. A Notice of Allowance indicating the same is therefore earnestly solicited.

The Examiner is invited to telephone the Applicant's undersigned attorney at (248) 223-9500 if any unresolved matters remain.

Please charge any fees required in the filing of this amendment to Deposit Account 50-0476.

Respectfully submitted,

ARTZ & ARTZ, P.C.



John A. Artz (Reg. No. 25,824)
28333 Telegraph Road, Suite 250
Southfield, MI 48034
(248) 223-9500

Date: _____

5/2/05